IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6355 OF 2007

Kaushalyabai J. Mhatre ....Petitioner
V/s
State of Maharashtra & Ors..... ....Respondents.

Mr.S.S.Deshmukh Adv. For the petitioner.

Mr.R.M.Patne, AGP for the State.

Mr.P.S.Dani, Adv. For the respondent No.4.

CORAM: A.P.DESHPANDE, J.
11/10/07

PC:

It is the case of the petitioner that his father was a tenant in respect of agricultural land bearing S.No.16 Hissa No.6 admeasuring 73.8 ars at Kolve, taluka Pen. It is also case of the petitioner that the said property was purchased by the tenant and he was issued certificate under section 32M of the act. Sometime in the year 1966 by a registered sale deed dated 4.10.66 the father of the petitioner sold the property in favour of the father of respondent No.4. Relying on the said sale deed respondent No.4 moved an application for recording of mutation entry in revenue record in the year 2002. The SDO rejected the application and aggrieved thereby respondent No.4 preferred an appeal before the Collector. The Collector allowing the appeal remitted the matter back to SDO for making elaborate inquiry and for carrying out the entry according to the said sale deed. The said order passed by the Collector was challenged by present petitioner before the Additional Commissioner, Konkan Division. The Commissioner has rejected the revision and hence the present writ petition has been filed. It is not in

dispute that the respondent No.4 has filed regular civil suit bearing No.126/02 in the Court of Civil Judge, J.D. Pen for declaration and possession in regard to the subject property. It is prayed in the suit that it be declared that the property is owned by the plaintiff (respondent No.4 herein). Further prayer for delivery of possession is also made which is indicative of the fact that the present petitioner is in possession. What is relevant to note is that mutation entries in the revenue records do not vest party with any title to the property. As the question of ownership is subjudice before the Civil Court the mutation proceedings that are being contested by the parties are wholly futile in as much as depending upon the final outcome in the suit correct mutation entries will have to be taken in the revenue record. Thus I deem it appropriate to declare that mutation entries in revenue records in regard to the subject property standing as of today shall be subject to the final outcome of the civil suit filed by the respondent No.4 against the petitioner for declaration and possession. With this clarification writ petition is disposed of.

11.10.07